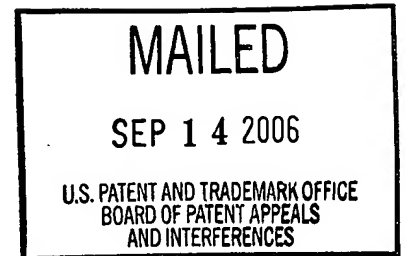


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SURESH MARISSETTY,
GEORGE THANGADURAI and MANI AYYAR

Application No. 10/628,726



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on August 24, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

Evidence of Record

On January 30, 2006, an Examiner's Answer was mailed in response to the Appeal Brief received December 1, 2005. A review of the Examiner's Answer reveals that it is not in compliance with the Manual of Patent Examining Procedure (MPEP). In the "Evidence Relied Upon" (section 8), the examiner indicates no evidence of record was relied upon. In accordance

with MPEP §1207.02, the “Evidence Relied Upon” (section 8) should include:

(8) Evidence Relied Upon

A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

Correction of the record is required.

Appeals Conference

A further review of the Examiner’s Answer reveals pertaining to the required appeals conference is not in compliance with the Manual of Patent Examining Procedure (MPEP)§ 1208 (8th ed., rev. 1, Feb. 2003).

According to MPEP § 1208:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner’s answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

On the examiner’s answer, below the primary examiner’s signature, the word “Conferees:” should be included, followed by the type or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.

The Examiner’s Answer was not signed or initialed by both of the appeals conference participants. Appropriate correction is required as required under MPEP § 1208.

REPLY BRIEF

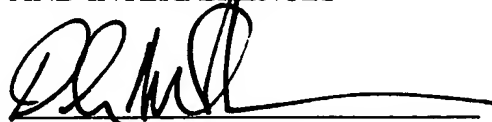
A Reply Brief in response to the Examiner's Answer dated January 30, 2006, was filed on March 29, 2006. There is no indication on the record, that the Reply Brief was considered and/or no acknowledgment of receipt mailed. A written communication notifying appellant of the Examiner's receipt and consideration of the Reply Brief is required.

Accordingly, it is

ORDERED that the application is returned to the examiner for:

- 1) issue a revised Examiner's Answer to include all required headings as set forth under 37 CFR § 41.37;
- 2) to obtain the conferee's initial or signature on the Examiner's Answer;
- 3) acknowledgment and consideration of any Reply Brief received in response to the revised Examiner's Answer; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

A handwritten signature in black ink, appearing to read 'D. M. Shaw', with a long horizontal flourish extending to the right.

DALE M. SHAW
Deputy Chief Appeals Administrator
(703)308-9797

Application No. 10/628,726

DMS/dpv

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